

ORDINANCE NO. 2010- 14

AN ORDINANCE AMENDING SECTION 11.06.04 AND ADDING SECTION 5.11.00 TO THE WALTON COUNTY LAND DEVELOPMENT CODE, ESTABLISHING THE DEFINITION OF NEW MINING OPERATIONS, ESTABLISHING THE DEVELOPMENT STANDARDS FOR LAND ALTERATION PRACTICES OF NEW MINES/PITS, PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Walton County Board of County Commissioners (the Board) has expressed a desire to protect the environment and natural surroundings throughout the county; and

WHEREAS, the Board has an expressed duty to protect the public safety, health, and welfare of the citizens of Walton County; and

WHEREAS, the State of Florida and the Northwest Florida Water Management District regulate and manage the location, operations, and renovation of land altering practices such as mines and borrow pits; and

WHEREAS, the Board finds that it is in the best interest of the health, safety, and welfare of citizens to establish regulations and development standards for the location, operation, and reclamation of mines and borrow pits;

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Walton County, that the Walton County Land Development Code be amended by adopting the following:

Section 1. AUTHORITY, PURPOSE AND INTENT.

This ordinance is adopted pursuant to Section 125.01 Florida Statutes, to regulate mining activities in Walton County.

Section 2. Section 11.06.04 of the Walton County Land Development Code is amended as follows (deletions are ~~strike through~~; additions are underlined):

11.06.04 Development Procedures

C. Mines established after August 14, 2007.

3. Development Standards and Reclamation Plan: The development standards and reclamation plan shall be in accordance with ~~the Interim "Best Management Practices" for Borrow Pits approved on July 22, 2008~~ §5.11.00 Mining Operation Development Standards.

Section 3. ADDED to Chapter 5 of the Walton County Land Development Code (deletions are ~~strike through~~; additions are underlined):

5.11.00 MINING OPERATIONS

5.11.01 Definitions

Environmentally Sensitive Areas means areas that include but not limited to environmentally significant wetlands and isolated wetlands over one acre in size.

Environmentally Significant Wetlands means those wetlands located within 300 feet of the mean high water line of the following water bodies and their tributaries:

<u>Choctawhatchee Bay</u>	<u>Shoal River</u>
<u>Choctawhatchee River</u>	<u>Intracoastal Waterway</u>
<u>Bruce Creek</u>	<u>Seven Runs Creek</u>
<u>Lafayette Creek</u>	<u>Morrison Springs</u>
<u>All Outstanding Florida Waters</u>	<u>Alaqua Creek</u>
<u>Black Creek</u>	<u>Natural Bridge Creek</u>

Environmentally Significant Water Bodies means those rivers, creeks, streams, Choctawhatchee Bay and other bodies of water associated with Environmentally Significant Wetlands.

Isolated Wetlands means any area that is determined to be a wetland in accordance with Chapter 62-340, F.A.C., but that does not have any connection via wetlands or other surface waters to the waters as defined in Rule 62-312.030, F.A.C.

Jurisdictional Wetlands means any area that is determined to be a wetland and is connected via wetlands or other surface waters to the waters defined in Rule 62-312.030, F.A.C.

New Mining Operations means mines established after August 14, 2007.

5.11.02 Development Standards: The development standards for new mining operations shall be in accordance with the following (Note: These standards replace the Interim “Best Management Practices” for Borrow Pits which were approved on July 22, 2008):

A. Buffers:

1. A 50’ buffer of existing vegetation shall be preserved around the perimeter of the site.
2. A 150’ buffer zone of existing vegetation shall be preserved landward from the upland edge of an environmentally significant wetland.
3. A 100’ buffer zone of existing vegetation shall be preserved landward from the upland edge of an isolated wetland or jurisdictional wetland which is not considered an environmentally significant wetland.
4. A 150’ buffer zone of existing vegetation shall be preserved landward from the mean or ordinary high water line of an environmentally significant waterbody.
5. A 100’ buffer of existing vegetation shall be preserved landward from the mean or ordinary high water line of any creek, river, stream or other water body which contains running water and is not an environmentally significant waterbody.
6. If the County deems that the existing vegetation is insufficient to protect the environmentally sensitive area from the adverse impacts of the mining activity, or if the existing vegetation has been disturbed or removed from the property before application for a development order is made, the County may require the planting of supplemental natural vegetation in the required buffer. The applicant shall prepare and submit a replanting plan or a supplemental planting plan to the County for approval. The supplemental plantings shall be of sufficient size and quantity that the functions of the natural buffer will be maintained.

B. Setbacks:

1. A 100’ setback of any public or private right-of-way.
2. A 25’ setback of the side or rear property line of abutting property with a land use of Heavy Industrial or Commercial.

3. A 100' setback of any side or rear property line of abutting property located in any land use that allows residential development if the parcel does not contain a residential structure at the time of the proposed mining operation.

4. A 1000' setback from the closest portion of a residential or institutional structure.

5. The County may reduce setbacks provided the applicant has provided competent and substantial evidence that a lesser requirement will not adversely affect the public health, safety, or welfare.

6. The County may require increased setbacks to protect wellheads, environmental resources and/or adjacent properties from adverse impacts.

C. Security/Fencing:

1. The mining operation shall be enclosed with a security fence and gate as specified in the approved development order. This requirement may be waived or partially waived only where natural geographic features of the site serve to sufficiently restrict site access such that the safety and welfare of the public are protected.

2. Warning signs of at least 6 (six) square feet shall be permanently posted 10 (ten) feet within the perimeter fence lines of the mining operation. These signs shall be placed at each corner of the fence line and also not more than 100 yards apart along any part of the fence line that is accessible to the public. The sign shall be printed in letters not less than 5 (five) inches in height and shall state "No Trespassing" (or another approved appropriate warning), the name of the mining operation, and a telephone number at which the mining operation may be contacted in case of an emergency. The signs shall be positioned to be clearly visible from outside the fence line.

D. Dust prevention/Air quality: The mining operation shall be operated to minimize dust emissions.

E. Operating hours: Excavation activity shall be conducted Monday through Friday, between the hours of 7:00 a.m. and 6:00 p.m., unless otherwise approved by the County.

F. Protection of easements: No excavation, except for ditches permitted by the NFWFMD, is permitted within 25' of the boundary line of a drainage or utility easement. A waiver may be granted with the consent of the easement holder.

G. Water impacts: Mining operations shall not have an adverse impact on the quality or quantity of groundwater or surface water of surrounding properties and must meet all the standards of the health department and the NFWFMD. Mining operations are prohibited within designated Wellhead Protection Zones as defined by §4.04.02 and Aquifer Recharge Areas as defined by §4.04.01.

H. Required slope: The standard slope for the side of an excavation shall be no steeper than one foot vertical drop for each four feet of horizontal distance measured from the edge of the excavation at existing grade unless an engineer or geologist certifies, to the satisfaction of the County, that an angle of repose exceeding this ratio will prohibit any potential erosion or slumping.

I. Burning: Burning or incineration associated with an excavation will require permits in accordance with the County, State, and Federal laws.

J. Storage of materials/Dumping of solid waste: No litter, solid materials, inorganic materials, or solid or hazardous waste may be placed within any excavation area or stored on the mining site if the site has not been previously permitted as a solid waste disposal site by FDEP and the County. This prohibition shall also include brick, glass, ceramics, and concrete. Solid waste activities may only be permitted if the property has the proper future land use that allows such activity. Sand, topsoil, tree remnants, and other vegetative debris cleared from the mining site may be placed in or stored on an excavation site provided the storage is pursuant to a valid reclamation plan approved by the County and the materials are free of invasive species or other contaminants.

K. Stormwater control: Stormwater may be discharged into a previously excavated area if it is included in a stormwater plan submitted by the applicant and approved by the County, and all appropriate federal, state and local permits have been obtained.

L. Erosion control and sedimentation: Soils exposed during site alteration must be stabilized, and runoff and siltation directed toward areas approved in the mining site plan or permit to prevent off-site impacts.

M. Noise control: Increases to ambient noise resulting from mining shall not cause a public nuisance as measured at the mining operation's property lines; nor shall mining activities generate noise in excess of that allowed by any local, regional, state, or federal laws, ordinances, rules, or regulations.

N. Screening requirements: Where mining operations are proposed adjacent to existing residential uses, the County shall require the applicant to utilize aesthetic features to screen the site, such as fences, landscaped screening buffers, or earthen berms.

O. Location of ingress/egress: External vehicle access shall be located to minimize danger to traffic and nuisance to surrounding properties. All external vehicle access shall be clearly marked pursuant to applicable county, state, and federal requirements.

P. Lighting: All lighting must meet the criteria of §5.09.00 of the Walton County Land Development Code.

Q. Blasting: No blasting or other use of explosives shall be conducted without proper permits from the governmental entities with jurisdiction, including the state fire marshal. Blasting shall be conducted only from Monday through Friday and during daylight hours. All mining activities must be performed in a manner that prevents vibrations of the soil from reaching a magnitude sufficient to cause damage to persons or property outside the mining operation's property.

R. Floodplain requirements: No mining activity, with the exception of approved peat and muck mining, shall be conducted in a special flood hazard area, a waterway, lake, or stream where such mining would have an adverse affect on the special flood hazard area.

S. Wildlife protection: Threatened and endangered species as listed by the Florida Fish and Wildlife Conservation Commission or the U.S. Fish and Wildlife Service shall be protected to the maximum extent possible in accordance with state and federal regulations. The applicant shall submit documentation of their coordination with these agencies, where required by law.

T. Archaeological/Historical protection: Archaeological and historical sites, cemeteries, and burial grounds shall be preserved in accordance with applicable federal, state, regional, and local laws, ordinances, rules, and regulations. The State Division of Archives, History and Records Management shall be consulted to determine what resources may be located on a mining site. Any archaeological artifacts found during excavation shall be subject to the archaeological provisions of the Walton County Comprehensive Plan.

5.11.03 Reclamation: A reclamation plan shall be submitted as part of the application. Walton County reclamation plan requirements (in addition to those required by FDEP) are as follows:

A. Reclamation must commence within six months after cessation of mining activities and be completed within two years.

B. The Reclamation Plan must provide for the removal of any invasive species in the area to be reclaimed.

C. All upland areas must have established ground cover within one year after planting, over 80% of the reclaimed upland area, excluding roads, groves, or row crops. Bare areas shall not exceed one-quarter (1/4) acre.

D. Upland forested areas shall be established to resemble pre-mining conditions when practical and consistent with proposed land uses. At a minimum, 10% of the upland area will be re-vegetated as

upland forested areas with a variety of indigenous tree species. Upland forested areas shall be protected from grazing, mowing, or other adverse land uses to allow establishment. An area will be considered to be reforested if a stand density of 200 trees/acre is achieved at the end of one year after planting.

E. The County may require reclamation in phases. The County shall determine the stages or intervals at which the various stages of reclamation must be commenced and completed.

F. All debris, litter, junk, worn-out or unusable equipment or materials shall be removed from the mining site.

G. All temporary buildings, pipelines, and other man-made structures shall be removed with the exception of those that are of sound construction with potential use in connection with the reclamation goals.

H. Slopes of any reclaimed land area shall be no steeper than four (4) feet horizontal to one (1) foot vertical to enhance slope stabilization and provide for the safety of the general public. For long continuous slopes, mulching, contouring, or other suitable techniques shall be used to enhance stabilization. Should washes or rills develop after revegetation and before final release of the area, the permittee shall repair the eroded areas and stabilize the slopes to eliminate any further erosion.

I. Clean gravel, sand, topsoil, tree and other vegetation remnants may be used as fill as part of the reclamation plan provided they are free of invasive species or contaminants. Any such spoil piles not used in connection with reclamation must be removed from the mining site.

J. The reclamation plan must contain the following information and be drawn to a reasonable scale depending upon the size of the project as specified by the Environmental Division of Public Works Department.

1. Show existing natural and manmade features, including watercourses, water bodies, wetlands, general vegetative communities and concentrations, streets, utility lines, wells, septic tanks, drain fields, chemical/fuel storage tanks (surface and subsurface), easements and similar physical characteristics of the site.

2. Show all areas to be reclaimed by depicting and/or describing what manmade and natural features will exist when the reclamation plan is completed. This requirement includes the depiction of mitigation or preservation areas established for wildlife species.

3. Depict at least two (2) typical cross sections with elevations, generally oriented north to south and east to west, reshaped. Water elevations shall also be shown.

4. Depict any area to become a lake.

5. Depict any required fences, walls, or vegetative buffers, including at least one cross-section.

6. Document the type and location of vegetation to be preserved or planted including, but not limited to, grass(es), tree(s) and shrubs, and document the methods to be used to control erosion.

7. Provide any additional information requested by the County in order to depict the intended reclamation plan.

8. In the event that reclamation is not completed in accordance with the approved plan and within the required time periods, the County may, in its sole discretion, provide a reasonable extension of time to the permittee or draw upon the reclamation performance assurance.

5.10.04 Applicability: Section 5.11.01 through 5.11.03 shall be applicable to new mines established after August 14, 2007, that do not have a development order as of the date of enactment of Section 5.11.

Section 4. CONFLICT.

Those portions of ordinances, whose subject matter is the Land Development Code, which are in conflict, are hereby repealed.

Section 5. SEVERABILITY.

In the event that any portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 6. EFFECTIVE DATE.

This ordinance shall become effective when filed with the Secretary of State.

Adopted by the Board of County Commissioners of Walton County, Florida, at a duly advertised public hearing this 2ⁿ day of July, 2010.

BOARD OF COUNTY COMMISSIONERS
WALTON COUNTY, FLORIDA

ATTEST:

By: Scott A. Brannon
Scott Brannon, Chair

for Kim Wilkins
Martha Ingle
Clerk of Court